



05-CV-05538-STIP

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

BARBARA BERRY, S.A. de C.V.,

Plaintiff,

v.

KEN M. SPOONER FARMS, INC.,

Defendant.

05-5538-FDB

STIPULATION AND ORDER

STIPULATION

Plaintiff Barbara Berry, S.A. de C.V. ("Barbara Berry") and Defendant Ken M. Spooner Farms, Inc. ("Spooner Farms") stipulate that the attorneys' fees provision of the Spooner Farms invoice is limited to disputes regarding "default of payment due" under the invoice. As this matter is not a dispute regarding a "default of payment due" no party would be entitled to recover attorneys' fees even if the terms of the invoice were part of the contract between the parties. All other claims have been determined by the court and no claims remain for trial.

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1 Dated this 4th day of August, 2009.

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ORDER

This Court's April 3, 2009 Order Granting Spooner Farms Second Motion for Summary Judgment adjudicated all of the claims in the action except Spooner Farms' claim for attorney fees. Based on the foregoing stipulation of the parties, no claims for attorney fees remain for trial. Pursuant to FRCP 54(b), the Order Granting Spooner Farms Second Motion for Summary Judgment is revised to have adjudicated all of the claims in this action. Therefore, the clerk is directed to enter final judgment on the Court's April 3, 2009 Order Granting Spooner Farms Second Motion for Summary Judgment.

Dated: 8/8/09


The Honorable Franklin D. Burgess
United States District Judge

Presented by:

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